



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

SB0041

Introduced 1/31/2007, by Sen. Christine Radogno - Arthur "A.J." Wilhelmi

SYNOPSIS AS INTRODUCED:

65 ILCS 5/8-11-1.3	from Ch. 24, par. 8-11-1.3
65 ILCS 5/8-11-1.4	from Ch. 24, par. 8-11-1.4
65 ILCS 5/8-11-1.5	from Ch. 24, par. 8-11-1.5
65 ILCS 5/8-11-1.2 rep.	

Amends the Illinois Municipal Code concerning the non-homerule use and occupation taxes. Deletes the requirement that a municipality must use the proceeds of the taxes only for expenditure on public infrastructure or property tax relief. Repeals provisions defining "public infrastructure" and "property tax relief". Effective immediately.

LRB095 03962 BDD 23995 b

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning local government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Municipal Code is amended by
5 changing Sections 8-11-1.3, 8-11-1.4, and 8-11-1.5 as follows:

6 (65 ILCS 5/8-11-1.3) (from Ch. 24, par. 8-11-1.3)

7 Sec. 8-11-1.3. Non-Home Rule Municipal Retailers'
8 Occupation Tax Act. The corporate authorities of a non-home
9 rule municipality may impose a tax upon all persons engaged in
10 the business of selling tangible personal property, other than
11 on an item of tangible personal property which is titled and
12 registered by an agency of this State's Government, at retail
13 in the municipality ~~for expenditure on public infrastructure or~~
14 ~~for property tax relief or both as defined in Section 8-11-1.2~~
15 if approved by referendum as provided in Section 8-11-1.1, of
16 the gross receipts from such sales made in the course of such
17 business. The tax imposed may not be more than 1% and may be
18 imposed only in 1/4% increments. The tax may not be imposed on
19 the sale of food for human consumption that is to be consumed
20 off the premises where it is sold (other than alcoholic
21 beverages, soft drinks, and food that has been prepared for
22 immediate consumption) and prescription and nonprescription
23 medicines, drugs, medical appliances, and insulin, urine

1 testing materials, syringes, and needles used by diabetics. The
2 tax imposed by a municipality pursuant to this Section and all
3 civil penalties that may be assessed as an incident thereof
4 shall be collected and enforced by the State Department of
5 Revenue. The certificate of registration which is issued by the
6 Department to a retailer under the Retailers' Occupation Tax
7 Act shall permit such retailer to engage in a business which is
8 taxable under any ordinance or resolution enacted pursuant to
9 this Section without registering separately with the
10 Department under such ordinance or resolution or under this
11 Section. The Department shall have full power to administer and
12 enforce this Section; to collect all taxes and penalties due
13 hereunder; to dispose of taxes and penalties so collected in
14 the manner hereinafter provided, and to determine all rights to
15 credit memoranda, arising on account of the erroneous payment
16 of tax or penalty hereunder. In the administration of, and
17 compliance with, this Section, the Department and persons who
18 are subject to this Section shall have the same rights,
19 remedies, privileges, immunities, powers and duties, and be
20 subject to the same conditions, restrictions, limitations,
21 penalties and definitions of terms, and employ the same modes
22 of procedure, as are prescribed in Sections 1, 1a, 1a-1, 1d,
23 1e, 1f, 1i, 1j, 2 through 2-65 (in respect to all provisions
24 therein other than the State rate of tax), 2c, 3 (except as to
25 the disposition of taxes and penalties collected), 4, 5, 5a,
26 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i, 5j, 5k, 5l, 6, 6a, 6b, 6c, 7, 8,

1 9, 10, 11, 12 and 13 of the Retailers' Occupation Tax Act and
2 Section 3-7 of the Uniform Penalty and Interest Act as fully as
3 if those provisions were set forth herein.

4 No municipality may impose a tax under this Section unless
5 the municipality also imposes a tax at the same rate under
6 Section 8-11-1.4 of this Code.

7 Persons subject to any tax imposed pursuant to the
8 authority granted in this Section may reimburse themselves for
9 their seller's tax liability hereunder by separately stating
10 such tax as an additional charge, which charge may be stated in
11 combination, in a single amount, with State tax which sellers
12 are required to collect under the Use Tax Act, pursuant to such
13 bracket schedules as the Department may prescribe.

14 Whenever the Department determines that a refund should be
15 made under this Section to a claimant instead of issuing a
16 credit memorandum, the Department shall notify the State
17 Comptroller, who shall cause the order to be drawn for the
18 amount specified, and to the person named, in such notification
19 from the Department. Such refund shall be paid by the State
20 Treasurer out of the non-home rule municipal retailers'
21 occupation tax fund.

22 The Department shall forthwith pay over to the State
23 Treasurer, ex officio, as trustee, all taxes and penalties
24 collected hereunder. On or before the 25th day of each calendar
25 month, the Department shall prepare and certify to the
26 Comptroller the disbursement of stated sums of money to named

1 municipalities, the municipalities to be those from which
2 retailers have paid taxes or penalties hereunder to the
3 Department during the second preceding calendar month. The
4 amount to be paid to each municipality shall be the amount (not
5 including credit memoranda) collected hereunder during the
6 second preceding calendar month by the Department plus an
7 amount the Department determines is necessary to offset any
8 amounts which were erroneously paid to a different taxing body,
9 and not including an amount equal to the amount of refunds made
10 during the second preceding calendar month by the Department on
11 behalf of such municipality, and not including any amount which
12 the Department determines is necessary to offset any amounts
13 which were payable to a different taxing body but were
14 erroneously paid to the municipality. Within 10 days after
15 receipt, by the Comptroller, of the disbursement certification
16 to the municipalities, provided for in this Section to be given
17 to the Comptroller by the Department, the Comptroller shall
18 cause the orders to be drawn for the respective amounts in
19 accordance with the directions contained in such
20 certification.

21 For the purpose of determining the local governmental unit
22 whose tax is applicable, a retail sale, by a producer of coal
23 or other mineral mined in Illinois, is a sale at retail at the
24 place where the coal or other mineral mined in Illinois is
25 extracted from the earth. This paragraph does not apply to coal
26 or other mineral when it is delivered or shipped by the seller

1 to the purchaser at a point outside Illinois so that the sale
2 is exempt under the Federal Constitution as a sale in
3 interstate or foreign commerce.

4 Nothing in this Section shall be construed to authorize a
5 municipality to impose a tax upon the privilege of engaging in
6 any business which under the constitution of the United States
7 may not be made the subject of taxation by this State.

8 When certifying the amount of a monthly disbursement to a
9 municipality under this Section, the Department shall increase
10 or decrease such amount by an amount necessary to offset any
11 misallocation of previous disbursements. The offset amount
12 shall be the amount erroneously disbursed within the previous 6
13 months from the time a misallocation is discovered.

14 The Department of Revenue shall implement this amendatory
15 Act of the 91st General Assembly so as to collect the tax on
16 and after January 1, 2002.

17 As used in this Section, "municipal" and "municipality"
18 means a city, village or incorporated town, including an
19 incorporated town which has superseded a civil township.

20 This Section shall be known and may be cited as the
21 "Non-Home Rule Municipal Retailers' Occupation Tax Act".

22 (Source: P.A. 94-679, eff. 1-1-06.)

23 (65 ILCS 5/8-11-1.4) (from Ch. 24, par. 8-11-1.4)

24 Sec. 8-11-1.4. Non-Home Rule Municipal Service Occupation
25 Tax Act. The corporate authorities of a non-home rule

1 municipality may impose a tax upon all persons engaged, in such
2 municipality, in the business of making sales of service ~~for~~
3 ~~expenditure on public infrastructure or for property tax relief~~
4 ~~or both as defined in Section 8-11-1.2~~ if approved by
5 referendum as provided in Section 8-11-1.1, of the selling
6 price of all tangible personal property transferred by such
7 servicemen either in the form of tangible personal property or
8 in the form of real estate as an incident to a sale of service.
9 The tax imposed may not be more than 1% and may be imposed only
10 in 1/4% increments. The tax may not be imposed on the sale of
11 food for human consumption that is to be consumed off the
12 premises where it is sold (other than alcoholic beverages, soft
13 drinks, and food that has been prepared for immediate
14 consumption) and prescription and nonprescription medicines,
15 drugs, medical appliances, and insulin, urine testing
16 materials, syringes, and needles used by diabetics. The tax
17 imposed by a municipality pursuant to this Section and all
18 civil penalties that may be assessed as an incident thereof
19 shall be collected and enforced by the State Department of
20 Revenue. The certificate of registration which is issued by the
21 Department to a retailer under the Retailers' Occupation Tax
22 Act or under the Service Occupation Tax Act shall permit such
23 registrant to engage in a business which is taxable under any
24 ordinance or resolution enacted pursuant to this Section
25 without registering separately with the Department under such
26 ordinance or resolution or under this Section. The Department

1 shall have full power to administer and enforce this Section;
2 to collect all taxes and penalties due hereunder; to dispose of
3 taxes and penalties so collected in the manner hereinafter
4 provided, and to determine all rights to credit memoranda
5 arising on account of the erroneous payment of tax or penalty
6 hereunder. In the administration of, and compliance with, this
7 Section the Department and persons who are subject to this
8 Section shall have the same rights, remedies, privileges,
9 immunities, powers and duties, and be subject to the same
10 conditions, restrictions, limitations, penalties and
11 definitions of terms, and employ the same modes of procedure,
12 as are prescribed in Sections 1a-1, 2, 2a, 3 through 3-50 (in
13 respect to all provisions therein other than the State rate of
14 tax), 4 (except that the reference to the State shall be to the
15 taxing municipality), 5, 7, 8 (except that the jurisdiction to
16 which the tax shall be a debt to the extent indicated in that
17 Section 8 shall be the taxing municipality), 9 (except as to
18 the disposition of taxes and penalties collected, and except
19 that the returned merchandise credit for this municipal tax may
20 not be taken against any State tax), 10, 11, 12 (except the
21 reference therein to Section 2b of the Retailers' Occupation
22 Tax Act), 13 (except that any reference to the State shall mean
23 the taxing municipality), the first paragraph of Section 15,
24 16, 17, 18, 19 and 20 of the Service Occupation Tax Act and
25 Section 3-7 of the Uniform Penalty and Interest Act, as fully
26 as if those provisions were set forth herein.

1 No municipality may impose a tax under this Section unless
2 the municipality also imposes a tax at the same rate under
3 Section 8-11-1.3 of this Code.

4 Persons subject to any tax imposed pursuant to the
5 authority granted in this Section may reimburse themselves for
6 their serviceman's tax liability hereunder by separately
7 stating such tax as an additional charge, which charge may be
8 stated in combination, in a single amount, with State tax which
9 servicemen are authorized to collect under the Service Use Tax
10 Act, pursuant to such bracket schedules as the Department may
11 prescribe.

12 Whenever the Department determines that a refund should be
13 made under this Section to a claimant instead of issuing credit
14 memorandum, the Department shall notify the State Comptroller,
15 who shall cause the order to be drawn for the amount specified,
16 and to the person named, in such notification from the
17 Department. Such refund shall be paid by the State Treasurer
18 out of the municipal retailers' occupation tax fund.

19 The Department shall forthwith pay over to the State
20 Treasurer, ex officio, as trustee, all taxes and penalties
21 collected hereunder. On or before the 25th day of each calendar
22 month, the Department shall prepare and certify to the
23 Comptroller the disbursement of stated sums of money to named
24 municipalities, the municipalities to be those from which
25 suppliers and servicemen have paid taxes or penalties hereunder
26 to the Department during the second preceding calendar month.

1 The amount to be paid to each municipality shall be the amount
2 (not including credit memoranda) collected hereunder during
3 the second preceding calendar month by the Department, and not
4 including an amount equal to the amount of refunds made during
5 the second preceding calendar month by the Department on behalf
6 of such municipality. Within 10 days after receipt, by the
7 Comptroller, of the disbursement certification to the
8 municipalities and the General Revenue Fund, provided for in
9 this Section to be given to the Comptroller by the Department,
10 the Comptroller shall cause the orders to be drawn for the
11 respective amounts in accordance with the directions contained
12 in such certification.

13 The Department of Revenue shall implement this amendatory
14 Act of the 91st General Assembly so as to collect the tax on
15 and after January 1, 2002.

16 Nothing in this Section shall be construed to authorize a
17 municipality to impose a tax upon the privilege of engaging in
18 any business which under the constitution of the United States
19 may not be made the subject of taxation by this State.

20 As used in this Section, "municipal" or "municipality"
21 means or refers to a city, village or incorporated town,
22 including an incorporated town which has superseded a civil
23 township.

24 This Section shall be known and may be cited as the
25 "Non-Home Rule Municipal Service Occupation Tax Act".

26 (Source: P.A. 94-679, eff. 1-1-06.)

1 (65 ILCS 5/8-11-1.5) (from Ch. 24, par. 8-11-1.5)

2 Sec. 8-11-1.5. Non-Home Rule Municipal Use Tax Act. The
3 corporate authorities of a non-home rule municipality may
4 impose a tax upon the privilege of using, in such municipality,
5 any item of tangible personal property which is purchased at
6 retail from a retailer, and which is titled or registered with
7 an agency of this State's government, based on the selling
8 price of such tangible personal property, as "selling price" is
9 defined in the Use Tax Act, ~~for expenditure on public~~
10 ~~infrastructure or for property tax relief or both as defined in~~
11 ~~Section 8-11-1.2,~~ if approved by referendum as provided in
12 Section 8-11-1.1. The tax imposed may not be more than 1% and
13 may be imposed only in 1/4% increments. Such tax shall be
14 collected from persons whose Illinois address for title or
15 registration purposes is given as being in such municipality.
16 Such tax shall be collected by the municipality imposing such
17 tax. A non-home rule municipality may not impose and collect
18 the tax prior to January 1, 2002.

19 This Section shall be known and may be cited as the
20 "Non-Home Rule Municipal Use Tax Act".

21 (Source: P.A. 94-679, eff. 1-1-06.)

22 (65 ILCS 5/8-11-1.2 rep.)

23 Section 10. The Illinois Municipal Code is amended by
24 repealing Section 8-11-1.2.

1 Section 99. Effective date. This Act takes effect upon
2 becoming law.